
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
City of Newark)	File No.: EB-FIELDWR-13-00012721
Licensee of Station WNMQ214)	
)	NOV No.: V201432960007
Newark, California)	

NOTICE OF VIOLATION

Released: January 9, 2014

By the District Director, San Francisco Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to the City of Newark, licensee of radio station WNMQ214 in Newark, California. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On December 14, 2013, an agent of the Enforcement Bureau's San Francisco Office monitored radio station WNMQ214, located in Newark, California, and observed the following violation:

- a. 47 C.F.R. § 1.903(a): "Stations in the Wireless Radio Services must be used and operated in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part." The agent determined that the station's actual location was approximately 37-31-30.7 N, 122-02-07.6 W. The agent later found that the coordinates for the station's fixed location, as listed on the station license for WNMQ214, are 37-21-34.8 N, 122-02-08.9 W, which is more than 12 miles from the station's actual location.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, the City of Newark, must submit a written statement concerning this matter

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

³ 47 U.S.C. § 308(b).

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within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Rules, we direct the City of Newark, to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the City of Newark, with personal knowledge of the representations provided in the City of Newark's response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
San Francisco Office
5653 Stoneridge Dr., Suite 105
Pleasanton, CA 94588-8543

6. This Notice shall be sent to the City of Newark, at its address of record.

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David K. Hartshorn
District Director
San Francisco Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).